## 2003 DRAFTING REQUEST

### Assembly Amendment (AA-AB903)

Received	: 03/02/2004			v.	Received By: gn	nalaise		
Wanted: Today				Identical to LRB:				
For: Karl Van Roy (608) 266-0616					By/Representing: Tanya Hein			
This file may be shown to any legislator: NO					Drafter: gmalaise			
May Contact:					Addl. Drafters:			
Subject: Employ Priv - minimum wage					Extra Copies:			
Submit v	ia email: <b>YES</b>							
Requeste	Requester's email: Rep.VanRoy@legis.state.wi.us							
Carbon c	opy (CC:) to:							
Pre Topi	ic:							
No specif	fic pre topic gi	ven						
Topic:	· · · · · · · · · · · · · · · · · · ·					<del></del>		
Overtime retroactiv	pay exemption pays pays pays pays pays pays pays pays	on for companio overpayments	nship care p	providers; del	ete minimum wag	e exemption; pr	ohibit	
Instructi	Instructions:							
1. Take of paid for v	out exemption work performe	from minimum d before public	wage law.	2. Prohibit e	mployer from reco	overing any ove	ertime pay	
Drafting	History:							
Vers.	<u>Drafted</u>	Reviewed	<u>Typed</u>	Proofed	Submitted	<u>Jacketed</u>	Required	
/?	gmalaise 03/02/2004	wjackson 03/02/2004						
/1			jfrantze 03/02/200	04	mbarman 03/02/2004	mbarman 03/02/2004		

03/05/2004 09:45:46 AM Page 2

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/2	gmalaise 03/04/2004	chanaman 03/05/2004	jfrantze 03/05/2004	4	Inorthro 03/05/2004	Inorthro 03/05/2004	

FE Sent For:

<END>

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Subject: Employ Priv - minimum wage					Extra Copies:			
Submit '	via email: <b>YES</b>							
Request	er's email:	Rep.VanR	oy@legis.s	tate.wi.us				
Carbon	copy (CC:) to:							
Pre Top	pic:	<del></del>					<del> </del>	
No spec	ific pre topic gi	iven						
Topic:								
Overtim retroacti	e pay exemption	on for companic overpayments	onship care	providers; del	ete minimum wag	ge exemption; p	rohibit	
Instruc	tions:			· · · · · · · · · · · · · · · · · · ·				
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/?	gmalaise 03/02/2004	wjackson 03/02/2004		-	·			
/1			jfrantze 03/02/20	04	mbarman 03/02/2004	mbarman 03/02/2004		
			3/5	Je Pg				

03/02/2004 05:29:51 PM Page 2

<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u> <u>Submitted</u> <u>Jacketed</u> <u>Required</u>

FE Sent For:

<END>

### 2003 DRAFTING REQUEST

**Assembly Amendment (AA-AB903)** 

Received: 03/02/2004

Received By: gmalaise

Wanted: Today

Identical to LRB:

For: Karl Van Roy (608) 266-0616

By/Representing: Tanya Hein

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject:

Employ Priv - minimum wage

Extra Copies:

Submit via email: YES

Requester's email:

Rep.VanRoy@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Overtime pay exemption for companionship care providers; delete minimum wage exemption; prohibit retroactive recovery of overpayments

**Instructions:** 

1. Take out exemption from minimum wage law. 2. Prohibit employer from recovering any overtime pay paid for work performed before publication of act.

**Drafting History:** 

Vers. <u>Drafted</u>

Reviewed Typed

**Proofed** 

Submitted

**Jacketed** 

Required

/?

gmalaise

/ WLi

FE Sent For:

<END>



1

## State of Misconsin 2003 - 2004 LEGISLATURE

D-NOTE 3/2

LRBa2504/? GMM......

### ASSEMBLY AMENDMENT,

### TO 2003 ASSEMBLY BILL 903

2	1. Page 1, line 2: delete "minimum".
3	$\sqrt{2}$ . Page 1, line 3: delete that line and substitute and substitute and overtime pay exemption
4	for providers of companionship services.".
5	$\checkmark$ 3. Page 3, line 12: delete lines 12 to 14 and substitute:
6	"Section 5m. Nonstatutory provisions.
7	(1) RETROACTIVE RECOVERY OF OVERTIME OVERPAYMENTS PROHIBITED.
8	Notwithstanding section 103.01 (1g) of the statutes, as created by this act, section
9	103.01 (2) of the statutes, as affected by this act, and SECTION 7 of this act, an
10	employer may not recover from a person employed in the provision of companionship
11	services, as defined in section 103.01 (1g) of the statutes, as created by this act, any
12	overtime compensation, as defined in section 103.025 (1) (c) of the statutes, paid to
13	that person for work performed before the date of publication of this act "

At the locations indicated, amend the bill as follows:

Page 3, line 22: delete "MINIMUM WAGE AND OVERTIME" and substitute "OVERTIME".

3

(END)

#### Representative Van Roy:

This amendment does all of the following:

- 1. Removes the exemption of providers of companionship services from the minimum wage law. As such, the bill, as affected by the amendment, will only exempt those providers from the overtime pay law.
- 2. Provides that, notwithstanding the retroactive effective date of the bill, an employer may not recover overtime pay paid to a companionship services provider for work performed before the date of publication of the bill.

At the meeting this morning, a concern was raised that the bill might impair collective bargaining agreements that provide for overtime pay and so we discussed removing from the bill the initial applicability provision, which states that the bill first applies to a collective bargaining agreement that contains provisions that are inconsistent with the bill when the agreement expires or is extended, modified, or renewed. On further review, however, it is precisely this language that protects existing collective bargaining agreements from impairment by the bill. Accordingly, this amendment does not remove the initial applicability provision from the bill.

As for future collective bargaining agreements, the bill does not prevent an employer from voluntarily agreeing to provide overtime pay; rather, the bill merely removes the mandate that an employer provide that pay. A good analogy is the minimum wage law, which sets the floor below which an employee may not be paid, but which does not prevent an employer from agreeing to pay an employee more than the minimum wage.

If you have any questions about the amendment or this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

Gordon M. Malaise Senior Legislative Attorney Phone: (608) 266–9738

LRBa2504/1dn GMM:wlj:jf

March 2, 2004

#### Representative Van Roy:

This amendment does all of the following:

- 1. Removes the exemption of providers of companionship services from the minimum wage law. As such, the bill, as affected by the amendment, will exempt only those providers from the overtime pay law.
- 2. Provides that, notwithstanding the retroactive effective date of the bill, an employer may not recover overtime pay paid to a companionship services provider for work performed before the date of publication of the bill.

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If you have any questions about the amendment or this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

Gordon M. Malaise Senior Legislative Attorney Phone: (608) 266–9738

#### Malaise, Gordon

From:

Hein, Tanya

Sent:

Thursday, March 04, 2004 4:38 PM

To:

Malaise, Gordon

Subject:

draft

Please draft an Assembly amendment and a senate amendment as we discussed:

- 1) removes minimum wage language
- 2) removes retroactivity
- 3) contains a drafter's note (as you already wrote) explaining the collective bargaining stuff.

We need them as soon as is possible. Tomorrow before noon would be great. Thanks!

#### Tanya R. Hein Legislative Aide

State Representative Karl Van Roy 8 West, State Capitol P.O. Box 8953 Madison, WI 53708 Tel: 608-266-0616

Fax: 608-282-3690



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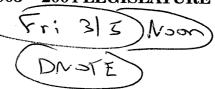
10

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12

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## State of Misconsin 2003 - 2004 LEGISLATURE





## ASSEMBLY AMENDMENT,

TO 2003 ASSEMBLY BILL 903

1	At the locations indicated,	, amend the bill as follows:

- 1. Page 1, line 2: delete "minimum".
- **2.** Page 1, line 3: delete that line and substitute "an overtime pay exemption for providers of companionship services.".
  - 3. Page 3, line 12: delete lines 12 to 14 and substitute:

### "Section 5m. Nonstatutory provisions

(1) Retroactive recovery of overtime overpayments profibited. Notwithstanding section 103.01 (1g) of the statutes, as created by this act, section 103.01 (2) of the statutes, as affected by this act, and Section 7 of this act, an employer may not recover from a person employed in the provision of companionship services, as defined in section 103.01 (1g) of the statutes, as created by this act, any overtime compensation, as defined in section 103.025 (1) (c) of the statutes, paid to that person for work performed before the date of publication of this act."

) A Dage 2 lin

4. Page 3, line 22: delete "MINIMUM WAGE AND OVERTIME" and substitute

2 \_ "OVERTIME".

3

(END)

#Page 3, line 21: delete lines 21 to 23.

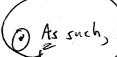
LRBa2504/Idn Z GMM:wJj:jf

March 2, 2004 - new date

will be hable for

Representative Van Roy:

Removes



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At the meeting this morning, a concern was raised that the bill might impair collective bargaining agreements that provide for overtime pay, and so we discussed removing from the bill the initial applicability provision, which states that the bill first applies to a collective bargaining agreement that contains provisions that are inconsistent with the bill when the agreement expires or is extended, modified, or renewed. On further review, however, it is precisely this language that protects existing collective bargaining agreements from impairment by the bill. Accordingly, this amendment does not remove the initial applicability provision from the bill.

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If you have any questions about the amendment or this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

Gordon M. Malaise Senior Legislative Attorney Phone: (608) 266-9739

Phone: (608) 266–9738

LRBa2504/2dn GMM:wlj&cmh:jf

March 5, 2004

### Representative Van Roy:

This amendment does all of the following:

- 1. Removes the exemption of providers of companionship services from the minimum wage law. As such, the bill, as affected by the amendment, will exempt only those providers from the overtime pay law.
- 2. Removes the retroactive effective date of the bill. As such, an employer will be liable for overtime pay for work performed before the date of publication of the bill.

At the meeting this morning, a concern was raised that the bill might impair collective bargaining agreements that provide for overtime pay, and so we discussed removing from the bill the initial applicability provision, which states that the bill first applies to a collective bargaining agreement that contains provisions that are inconsistent with the bill when the agreement expires or is extended, modified, or renewed. On further review, however, it is precisely this language that protects existing collective bargaining agreements from impairment by the bill. Accordingly, this amendment does not remove the initial applicability provision from the bill.

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